

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

SABA CAPITAL MASTER FUND, LTD., and  
SABA CAPITAL MANAGEMENT, L.P.,

Plaintiffs,

v.

ASA GOLD AND PRECIOUS METALS, LTD.,  
MARY JOAN HOENE, BRUCE HANSEN,  
WILLIAM DONOVAN, and AXEL MERK,

Defendants.

---

No. 24-cv-690 (JGLC)

**NOTICE OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that, upon the Amended Complaint, Dkt. 12, and the accompanying Memorandum of Law in Support of Saba's Motion for Summary Judgment and Saba's Rule 56.1 Statement; the Declaration of Mark Musico, dated May 24, 2024, and the exhibits thereto; the Declaration of Pierre Weinstein, dated May 24, 2024; and all prior papers and proceedings herein, Plaintiffs Saba Capital Master Fund, Ltd. and Saba Capital Management, L.P. (collectively, "Saba") will move this Court at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, on a date and time designated by the Court for the following relief:

*First*, Saba seeks an order granting Saba's motion for summary judgment on its claims for rescission (pursuant to Section 47(b) of the Investment Company Act of 1940, 15 U.S.C. § 80a-46(b)); a declaratory judgment (pursuant to 28 U.S.C. § 2201), that the Poison Pill adopted by Defendants violates Section 18(d) of the Investment Company Act of 1940, 15 U.S.C. § 80a-

18(d), and is void pursuant to 15 U.S.C. § 80a-46(b); and injunctive relief, as a customary legal incident of its right of action pursuant to 15 U.S.C. § 80a-46(b), preventing Defendants from further extending the Poison Pill, which violates Section 18(d) of the Investment Company Act of 1940, 15 U.S.C. § 80a-18(d).

*Second*, Saba seeks an order for such other and further relief as this Court may deem just and proper.

Dated: May 24, 2024

/s/ Mark Musico  
Jacob W. Buchdahl  
Mark Musico  
Zach Fields  
SUSMAN GODFREY LLP  
One Manhattan West, 50th Floor  
New York, NY 10001  
Tel: 212-336-8330  
mmusico@susmangodfrey.com  
jbuchdahl@susmangodfrey.com  
zfields@susmangodfrey.com

*Attorneys for Plaintiffs*